

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

VONELL LAVELL SHAW,

Plaintiff,

v.

OPINION and ORDER

ANGELA HODGE and MARY E. LEATHERS,

19-cv-210-jdp

Defendants.

Pro se plaintiff and prisoner Vonell Lavell Shaw is proceeding on a claim that defendants Angela Hodge (a nursing supervisor) and Mary Leathers (a nurse) violated the Eighth Amendment by intentionally giving him medication that they knew was prescribed to another prisoner and then refusing to provide medical treatment when he became ill. Defendants move for summary judgment. Dkt. 18.

In their declarations, both defendants say that they accidentally gave Shaw the wrong medication on one occasion. Hodge says she gave Shaw duloxetine. Dkt. 21, ¶ 5. She doesn't say what that is, but the Mayo Clinic describes it as an anti-depressant.¹ When Hodge learned of her mistake, she says that she contacted the on-call physician, who "had no concerns and gave no orders for treatment." *Id.*, ¶ 12. Leathers says that she gave Shaw Benadryl. Dkt. 22, ¶ 5. When Leathers realized her mistake, she informed the charge nurse, who then assessed Shaw. *Id.*, ¶ 10. Neither defendant describes any illness that Shaw suffered as a result of the mistake.

¹ <https://www.mayoclinic.org/drugs-supplements/duloxetine-oral-route/description/drg-20067247>.

Shaw didn't respond to defendants' motion for summary judgment, which means I must accept defendants' version of the facts as undisputed. *See Yancick v. Hanna Steel Corp.*, 653 F.3d 532, 543, 653 F.3d 532 (7th Cir. 2011). At most, those facts show that defendants were negligent in failing to exercise greater care before dispensing Shaw's medication. But that isn't enough to show an Eighth Amendment violation, which requires evidence that the defendants knew that they were subjecting Shaw to a substantial risk of serious harm. *See Forbes v. Edgar*, 112 F.3d 262, 266 (7th Cir. 1997). The evidence doesn't support that inference, so I will grant defendants' motion for summary judgment.

ORDER

IT IS ORDERED that the motion for summary judgment filed by defendants Angela Hodge and Mary Leathers, Dkt. 18, is GRANTED. The clerk of court is directed to enter judgment in favor of defendants and close this case.

Entered May 27, 2020.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge